

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

OPTUM, INC. and  
OPTUM SERVICES, INC.,

*Plaintiffs,*

v.

DAVID WILLIAM SMITH,

*Defendant.*

Civil Action No.: 19-cv-10101

**PLAINTIFFS' MOTION FOR IMPOUNDMENT OF MEMORANDUM  
IN SUPPORT OF THEIR MOTION FOR AN INJUNCTION PENDING APPEAL  
AND/OR AN INDICATIVE RULING ON THE PENDING MOTION FOR A  
TEMPORARY RESTRAINING ORDER**

Pursuant to L.R. 7.2, Plaintiffs Optum, Inc. and Optum Services, Inc. (together, “Optum”) respectfully move this Court for an order to file under seal Plaintiffs’ Memorandum of Law in Support of their Motion for an Injunction Pending Appeal and/or an Indicative Ruling on the Pending Motion for a Temporary Restraining Order (Dkt. # 58) (the “Memorandum”). The Memorandum contains references to, and content from, transcripts of this Court’s proceedings on Plaintiffs’ Motion for a Temporary Restraining Order that were held on January 30 and January 31, 2019. Although much of the proceedings were conducted in open court, the entirety of the transcripts of those proceedings are currently marked “SEALED / Attorneys’ Eyes Only.” Although none of the testimony that is cited or quoted in the Memorandum was conducted during the Court’s brief closed session, out of an abundance of caution given the notations on the transcripts, all such references to such testimony have been redacted from the version of the Memorandum that was filed publicly on February 6, 2019. Optum seeks to file the unredacted version of its Memorandum with the Court and, therefore, files this Motion for Impoundment.

Optum will file a hard copy (and, if requested, an electronic copy) of its Memorandum under seal with the Clerk's office (or as otherwise instructed) on the date this Court allows this Motion for Impoundment.

WHEREFORE, Optum respectfully requests that the Court grant its Motion to file Plaintiffs' Memorandum of Law in Support of their Motion for an Injunction Pending Appeal and/or an Indicative Ruling on the Pending Motion for a Temporary Restraining Order (Dkt. # 58) under seal.

Respectfully submitted,

OPTUM, INC. and  
OPTUM SERVICES, INC.,

By their attorneys,

/s/ Russell Beck

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Dated: February 6, 2019

#### **CERTIFICATE OF SERVICE**

I hereby certify that this document has been filed through the CM/ECF system on February 6, 2019, and will be served electronically to the registered participants as identified on the Notice of Electronic Filing through the Court's transmission facilities, and that non-registered participants have been served this day by mail.

/s/ Russell Beck

**LOCAL RULE 7.1(a)(2) CERTIFICATE**

I certify, pursuant to Local Rule 7.1(a)(2), that counsel for Plaintiffs have conferred with counsel for Defendant regarding Plaintiffs' Motion for Impoundment of the Memorandum of Law in Support of Plaintiffs' Motion for an Injunction Pending Appeal and/or an Indicative Ruling on the Pending Motion for a Temporary Restraining Order and have attempted in good faith to resolve or narrow the issues. Plaintiffs understand that Defendant does not oppose the relief requested by this motion.

/s/ Stephen D. Riden

Stephen D. Riden